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TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 01-006-A1)

PATENT

In re Application of: Jing et al.

Serial No.: 09/805,805

Filed: March 13, 2001

For: Fibroblast Growth Factor-Like  
Molecules and Uses Thereof

Before the Examiner: S. Romeo

Group Art Unit: 1647

Commissioner for Patents  
Washington, D.C. 20231

Sir:

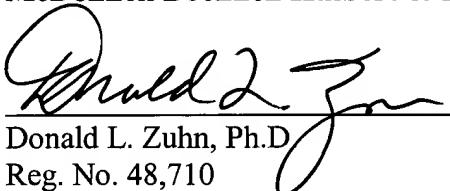
**TRANSMITTAL LETTER**

1. We are transmitting herewith the attached papers for the above-described patent application:  
Response to Restriction Requirement and return postcard.
2. GENERAL AUTHORIZATION TO CHARGE OR CREDIT FEES: Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2490.
3. CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 C.F.R. 1.10: The undersigned hereby certifies that this Transmittal Letter and the papers, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office to Addressee" in an envelope addressed to: Commissioner for Patents, Washington D.C. 20231, on October 25, 2002.

Respectfully submitted,  
**McDonnell Boehnen Hulbert & Berghoff**

Dated: October 25, 2002

By:

  
Donald L. Zuhn, Ph.D.  
Reg. No. 48,710



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Sir:

**RESPONSE TO RESTRICTION REQUIREMENT MAILED SEPTEMBER 25, 2002**

Responsive to the Restriction Requirement, mailed September 25, 2002, Applicants elect to prosecute claims 1-11, designated as Group I in the Action, with traverse. The Action states that the claims of Group I are drawn to a method for producing an FGF-L polypeptide comprising isolated nucleic acid molecules, vectors, and host cells comprising the same. Applicants further elect to prosecute claims 1-54, each in part, as the inventions pertain to SEQ ID NO: 1, designated as Group A in the Action, with traverse. The Action states that the inventions of Groups A and B are distinct both physically and functionally, and are not required one for the other. The basis for Applicants' traversal of the requirement is as follows.

Applicants respectfully submit that claims 1-8, 10, and 11, of Group I, are *not* drawn to a *method* for producing an FGF-L polypeptide, as the Action states, but rather are drawn to an isolated nucleic acid molecule comprising a nucleotide sequence encoding a polypeptide having an amino acid sequence as set forth SEQ ID NO: 2 (of which the nucleotide sequence set forth in SEQ ID NO: 1 is one embodiment), a vector comprising said nucleic acid molecule, a host cell comprising said nucleic acid molecule, and a method of producing said polypeptide by culturing said host cell containing said nucleic acid molecule. Applicants, therefore, respectfully request reconsideration of the restriction of the claims in Group I, as well as the Action's assertion that the invention of Group I is drawn to a *method* for producing an FGF-L polypeptide.

Moreover, Applicants contend that claim 44, which is drawn to a viral vector comprising the nucleic acid molecule of claims 1, 2, or 3, is not distinct from the invention of claims 1-8, 10,

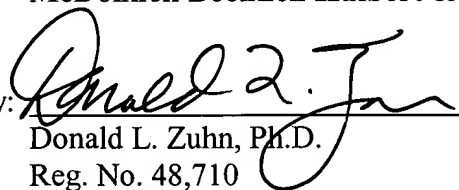
and 11. Applicants, therefore, respectfully request reconsideration of the restriction of claim 44 to the invention of Group IX.

Finally, Applicants respectfully submit that the inventions of Groups A (drawn to claims 1-54, each in part, as the inventions pertain to SEQ ID NO: 1) and B (drawn to claims 1-54, each in part, as the inventions pertain to SEQ ID NO: 2) are related in that the nucleotide sequence of SEQ ID NO: 1 encodes the amino acid sequence of SEQ ID NO: 2 (Specification, Figures 1A-1B). Moreover, Applicants contend that claims 1-8, 10, 11, and 44 are *not* drawn to a polypeptide having an amino acid sequence as set forth in SEQ ID NO: 2, but rather are drawn to an isolated nucleic acid molecule comprising a nucleotide sequence encoding a polypeptide having an amino acid sequence as set forth SEQ ID NO: 2 (of which the nucleotide sequence set forth in SEQ ID NO: 1 is one embodiment), a vector comprising said nucleic acid molecule, a host cell comprising said nucleic acid molecule, and a method of producing said polypeptide by culturing said host cell containing said nucleic acid molecule. Applicants, therefore, respectfully request reconsideration of the restriction of the claims in Group A, as well as the Action's assertion that claims 1-8, 10, 11, and 44 are drawn to a polypeptide having an amino acid sequence as set forth in SEQ ID NO: 2.

Applicants do not believe any additional fee is required. However, the Commissioner is authorized to charge any deficiency to Deposit Account No. 13-2490. If Examiner Romeo believes it to be helpful, he is invited to contact the undersigned representative by telephone at (312) 913-0001.

Respectfully submitted,  
**McDonnell Boehnen Hulbert & Berghoff**

Dated: October 25, 2002

By:   
Donald L. Zuhn, Ph.D.  
Reg. No. 48,710